

IN THE UNITED STATES SOUTHERN
DISTRICT COURT OF TEXAS

Wilson Based Court
Southern District of Texas
FILED

NOV 16 2018

CASE NO. 4:18-cv-02366

David J. Bradley, Clerk of Court

RICHARD AND BETTY STALONS, DARREN DELEON
PLAINTIFF(S)

v.

FIRST CLASS VACATIONS, INC., / CRUISE FIREFLY, ET AL.,
DOES 1 THRU 5
DEFENDANT(S)

MOTION FOR ENTRY OF DEFAULT JUDGMENT

1. Plaintiff(s) motions the court for an entry of judgment by default against defendant(s) FIRST CLASS VACATIONS, INC., / CRUISE FIREFLY, et al., pursuant to Fed.R.Civ.P. Rule 55(b)(2).
2. Plaintiff requests for the court to conduct a debtor's exam, asset search, hearings or make referrals to enter or effectuate judgment such as: Fed.R.Civ.P. Rule 55(b)(2)(A) conduct an accounting; (B) determine amount of damages.
3. In support of this request, Defendants failed to file a timely reply response to Plaintiff's verified complaint. Plaintiffs, as the moving party, have met its burden under Rule 56(c) and are entitled to entry of judgment by default.

4. As a precaution, Plaintiffs would review their Comcast Telephone Account online and had saved all call records of received calls made by defendants. These logged telemarketing call stand as substantive evidence to validate their 'proof of claim', Fed. R. Evid. Rule 902 - *Evidence that is self-authenticating*.

<u>DATE</u>	<u>TIME</u>	<u>CALL # ORIGIN</u>	<u>HQ PHONE #</u>
1. JULY-10-2014	16:03:59	5613259917	TIWANA
2. AUG-20-2014	14:16:39	7864194597	LINSEY
3. AUG-27-2014	16:25:32	3344317322	DIANNA
4. SEPT-11-2014	09:28:22	3344317322	DIANNA
5. MAR-25-2015	13:18:13	2817533916	pre-recorded
6. APR-17-2015	13:08:44	2817533916	pre-recorded
7. APR-30-2015	15:22:09	2817533916	pre-recorded
8. MAY-11-2015	18:23:48	2817533916	pre-recorded
9. MAY-19-2015	14:43:15	2817533916	pre-recorded
10. JUN-10-2015	15:20:00	2817533916	pre-recorded
11. JUN-22-2015	13:17:35	2817533916	pre-recorded
12. JUL-09-2015	15:58:25	2817533916	pre-recorded
13. JUL-09-2015	16:03:41	2818238072	pre-recorded
14. JUL-22-2015	13:24:13	2817533916	pre-recorded
15. AUG-06-2015	15:03:40	2817533916	pre-recorded
16. AUG-13-2015	15:09:39	2817533916	pre-recorded

5. Plaintiffs request to be awarded treble damages (15 of 16 calls) that defendant's violations were "*willful or knowing*", 47 U.S.C. 227(b)(3). The term "*willfully*" means "*defendant acted voluntarily under its own free will, despite of whether defendant knew that it was acting in violation of the statute*" as contained on their website <http://firstclassvacations.com/privacy-policy/> in 'Privacy Policy'. Treble damages does not require any malicious or unjustifiable conduct but satisfied by 'knowing' conduct. The first call may be awarded up to \$500 then 15 of 16 calls may be awarded up to \$1,500 each, for a total of \$23,000.

7. Plaintiff requests reimbursement for postage costs for certified mailings:

- May 10, 2016, receipt no. 70140150000069712117 - **\$5.15**
- June 30, 2016, receipt no. 70140150000069712148 - **\$5.15**
- June 8, 2018, by regular U.S. postal mail service - **\$.49**
- July 9, 2018, compliant sent 1 day delivery to USDC, Houston - **\$24.70**
- July 28, 2018, verified complaint with waiver of summons (failed to sign) receipt no. 70160600000091634256 - **\$7.33**
- Sept. 8, 2018, verified complaint with summons to FL process server receipt no. 70160600000091634287 - **\$4.58**

Total mailing costs: \$47.40

6. Plaintiff requests reimbursement for other associated fees and costs:

- July 9, 2018 - Reimbursement for filing fees in USDC, Houston - **\$400.00**
- July 17, 2018 - Notarized affidavit costs to notary - **\$8.00**
- Sept. 8, 2018 - Cost for FL process server - **\$90.00**
- If granted by the court's discretion, Plaintiff request reimbursement for time to perform legal research and to create various pleadings, affidavit, notices and other correspondences.


WHEREFORE, Plaintiff moves this honorable Court to grant a default judgment for the following relief:


The defendant(s) has demonstrated repeated 'willful' and 'deliberate' acts in direct violation of 47 U.S.C. 227(b)(1) and all calls actionable under 47 U.S.C. 227(c)(5).


1. Adjudging that Defendant(s) violated sections of the TCPA, 47 U.S.C. 227;
2. Award Plaintiff statutory damages under 47 U.S.C. 227(c)(5) as an actionable ground as a claim in which relief can be granted, up to \$500 on the first call; and award treble damages of \$1500 for each call thereafter (15 of 16) made to be "*willful*", "*repeated*" and "*deliberate*" acts by defendants, as established;

3. Award Plaintiff any fees and costs incurred in this civil action;
4. Award Plaintiff any post-judgment interest as allowed under the law;
5. Award injunctive relief prohibiting Defendant(s) such acts in the future;
6. Such other monetary award as the Court deems just and proper
 - (a) By protecting the public from such unethical conduct;
 - (b) Sufficient to punish the violations;
 - (c) Severe enough to deter others prone to commit similar violations;
7. Award such other and further relief as the Court may deem just and proper;

Executed on 15th day of November 2018.


Richard Stalons, Co-Plaintiff,

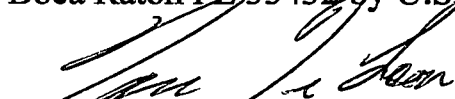

Betty Stalons, Co-Plaintiff,


Darren DeLeon, Co-Plaintiff,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of this motion for default judgment was furnished to the U.S. District Court for the Southern District TX, 515 Rusk Ave, Houston, TX 77002 and Defendant(s), First Class Vacations, Inc., / Cruise Firefly, et al, c/o Jeffrey Nahom, president / registered agent, 1515 So. Federal Hwy # 301, Boca Raton FL 33432 by U.S. Postal Mail on this 15th day of November, 2018.


Darren DeLeon, Co-Plaintiff,

CC: Richard and Betty Stalons, Co-Plaintiffs
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Spring, Texas 77379
(281)251-6675